

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JEREMY JOHNSON, etc., et al.,

Defendants.

Case No. 2:10-CV-02203-MMD-GWF

**ORDER (1) APPROVING
AND CONFIRMING SALE OF
AIRCRAFT AND FOR RELATED
RELIEF; (2) AUTHORIZING
RECEIVER TO LIST AND OFFER FOR
SALE AIRCRAFT; AND (3) GRANTING
RELIEF FROM LOCAL RULE 66-5
PERTAINING TO NOTICE TO
CREDITORS**

The Third Omnibus Motion for Order: (1) Approving and Confirming Sale of Aircraft and for Related Relief; (2) Authorizing Receiver to List and Offer for Sale Aircraft; and (3) Granting Relief from Local Rule 66-5 Pertaining to Notice to Creditors (“Motion”) filed by Robb Evans of Robb Evans & Associates LLC (“Receiver”), came on before the Court for determination. The Court having reviewed and considered the Motion and all pleadings and papers filed in support

1 thereof, and having reviewed and considered any opposition or response to the Motion, and good
2 cause appearing therefor,

3 IT IS ORDERED that:

4 1. The Motion and the relief sought therein is granted in its entirety;

5 2. Without limiting the generality of the foregoing:

6 A. The Receiver is authorized to sell that certain 2008 Robinson R44 Raven II
7 helicopter bearing Registration No. N41286 ("N41286 Helicopter") to California Aviation
8 Services, Inc. ("Proposed N41286 Helicopter Buyer"), an arms' length, third party buyer, on an
9 "as is and where is" basis, for a cash payment in the sum of \$327,200 pursuant to that certain
10 Helicopter Purchase Agreement dated as of July 13, 2012 ("Proposed N41286 Purchase
11 Contract"), a true and correct copy of which is attached as Exhibit 3 to the Declaration of Kenton
12 Johnson in support of the Motion, or to such higher qualified overbidder who hereafter submits
13 the highest qualified overbid at a subsequent overbid session to be conducted pursuant to the
14 following terms and conditions ("N41286 Helicopter Overbid Procedures") which N41286
15 Helicopter Overbid Procedures are hereby approved:

16 (1) The Receiver shall conduct an overbid session within 20 days of the date of
17 entry of this Order. The overbid session will be conducted at the offices of Quantum Helicopters
18 ("Broker") located at 2401 S. Heliport Way, Chandler, AZ 85286;

19 (2) The Receiver shall publish a notice of the proposed sale of the N41286
20 Helicopter to a qualified bidder at the overbid session to be conducted under paragraph 2.A.(1)
21 above, which notice shall state the date, time and place of the overbid session, and the
22 requirement for pre-qualification by overbidders, and will include a summary of the terms and
23 conditions of the overbidding and sale of the property, as described below ("N41286 Overbid
24 Notice"). A detailed description of the terms and conditions of the overbid session will be
25 provided to interested parties who contact the Receiver. The Receiver will cause the N41286
26 Overbid Notice to be published on two web sites, Controller and Trade-A-Plane, two times prior
27 to the scheduled overbid session, and in the Controller and Trade-A-Plane print magazines at least
28

1 one time prior to the scheduled overbid session, and with the first publication date to be at least
2 10 days prior to the scheduled overbid session date.

3 (3) Any person wishing to overbid at the overbid session shall be required to
4 pre-qualify with the Receiver no later than 10:00 a.m. P.D.T. on the business day preceding the
5 overbid session by delivering to the Receiver's office located at 11450 Sheldon Street, Sun
6 Valley, California 91352: (a) notice in writing of the prospective overbidder's intent to overbid
7 together with (b) written verification from a financial institution demonstrating to the Receiver's
8 satisfaction, in the Receiver's sole opinion and judgment, the prospective overbidder's ability to
9 complete and close a purchase of the N41286 Helicopter through sufficient funds or credit
10 facilities within 20 days of the date of the overbid session, and (c) a cashier's check in the sum of
11 \$30,000 payable to I Works Inc. Receivership QSF, which cashier's check shall become non-
12 refundable upon acceptance of the overbidder's overbid at the conclusion of the overbid session.

13 (4) Overbidders bidding at the overbid session will be deemed to have
14 completed all inspections of the N41286 Helicopter and will be deemed to have waived and/or
15 removed all contingencies in favor of the buyer under the Proposed N41286 Purchase Contract,
16 and will be required to complete a cash purchase of the N41286 Helicopter and close escrow for
17 the purchase of the N41286 Helicopter within 20 days of the date of the overbid session. The
18 successful overbidder will be required to execute a purchase agreement for the N41286
19 Helicopter substantially in the form of the Proposed N41286 Purchase Contract together with a
20 waiver of all buyer contingencies promptly after conclusion of the overbid session.

21 (5) The initial overbid shall be in the amount of \$357,200 (an amount that is
22 \$30,000 higher than the purchase price under the Proposed N41286 Purchase Contract), and all
23 subsequent overbids shall be in an amount at least \$10,000 higher than the preceding bid.

24 (6) Pursuant to the Proposed N41286 Purchase Contract and the Receiver's
25 listing agreement with his Broker, a sales commission in the fixed amount of 5% of the final sales
26 price paid for the N41286 Helicopter by the Proposed N41286 Helicopter Buyer, or if a higher
27 overbid is received and accepted at the overbid session, by the winning overbidder, shall be paid
28 from the proceeds of sale of the N41286 Helicopter at close of escrow and shall be paid to the

1 Broker as listing agent under the exclusive listing agreement (“N41286 Helicopter Listing
2 Agreement”) attached as Exhibit 1 to the Declaration of Kenton Johnson in support of the Motion
3 and the Sale Authorization Order entered by the Court on August 26, 2011 (Doc. No. 288).

4 B. The Receiver is hereby authorized to complete the sale of the N41286 Helicopter
5 to the Proposed N41286 Helicopter Buyer under the Proposed N41286 Purchase Contract, or to
6 the person who submits the highest qualified overbid at the overbid session to be conducted
7 pursuant to the foregoing procedures, and such sale is hereby approved and confirmed pursuant to
8 this Order without further notice, hearing or order;

9 C. The Receiver is hereby authorized to execute all documents and instruments
10 necessary or convenient to complete, implement, and effectuate the sale of the N41286
11 Helicopter, including without limitation any documents necessary or convenient to transfer title
12 thereto;

13 D. The Receiver is authorized to sell that certain 2005 Robinson R44 Raven II
14 helicopter bearing Registration No. N321WT (“N321WT Helicopter”) to RV Aviation, LLC, an
15 arms’ length, third party buyer for a cash payment in the sum of approximately \$150,000 on an
16 “as is and where is” basis pursuant to that certain Helicopter Purchase Agreement dated as of July
17 10, 2012 (“Proposed N321WT Purchase Contract”), a true and correct copy of which is attached
18 as Exhibit 4 to the Declaration of Kenton Johnson in support of the Motion, or to such higher
19 qualified overbidder who hereafter submits the highest qualified overbid at a subsequent overbid
20 session to be conducted pursuant to the following terms and conditions (“N321WT Helicopter
21 Overbid Procedures”) which N321WT Helicopter Overbid Procedures are hereby approved:

22 (1) The Receiver shall conduct an overbid session within 20 days of the date of
23 entry of this Order. The overbid session will be conducted at the offices of Quantum Helicopters
24 located at 2401 S. Heliport Way, Chandler, AZ 85286;

25 (2) The Receiver shall publish a notice of the proposed sale of the N321WT
26 Helicopter to a qualified bidder at the overbid session to be conducted under paragraph 2.D.(1)
27 above, which notice shall state the date, time and place of the overbid session, and the
28 requirement for pre-qualification by overbidders, and will include a summary of the terms and

1 conditions of the overbidding and sale of the property, as described below (“N321WT Overbid
2 Notice”). A detailed description of the terms and conditions of the overbid session will be
3 provided to interested parties who contact the Receiver. The Receiver will cause the N321WT
4 Overbid Notice to be published on two web sites, Controller and Trade-A-Plane, two times prior
5 to the scheduled overbid session, and in the Controller and Trade-A-Plane print magazines at least
6 one time prior to the scheduled overbid session, and with the first publication date to be at least
7 10 days prior to the scheduled overbid session date.

8 (3) Any person wishing to overbid at the overbid session shall be required to
9 pre-qualify with the Receiver no later than 10:00 a.m. P.D.T. on the business day preceding the
10 overbid session by delivering to the Receiver’s office located at 11450 Sheldon Street, Sun
11 Valley, California 91352: (a) notice in writing of the prospective overbidder’s intent to overbid
12 together with (b) written verification from a financial institution demonstrating to the Receiver’s
13 satisfaction, in the Receiver’s sole opinion and judgment, the prospective overbidder’s ability to
14 complete and close a purchase of the N321WT Helicopter through sufficient funds or credit
15 facilities within 20 days of the date of the overbid session, and (c) a cashier’s check in the sum of
16 \$15,000 payable to I Works Inc. Receivership QSF, which cashier’s check shall become non-
17 refundable upon acceptance of the overbidder’s overbid at the conclusion of the overbid session.

18 (4) Overbidders bidding at the overbid session shall be deemed to have
19 completed all inspections of the N321WT Helicopter and shall be deemed to have waived and/or
20 removed all contingencies in favor of the buyer under the Proposed N321WT Purchase Contract,
21 and will be required to complete a cash purchase of the N321WT Helicopter and close escrow for
22 the purchase of the N321WT Helicopter within 20 days of the date of the overbid session. The
23 successful overbidder shall be required to execute a purchase agreement for the N321WT
24 Helicopter substantially in the form of the Proposed N321WT Purchase Contract together with a
25 waiver of all buyer contingencies promptly after conclusion of the overbid session.

26 (5) The initial overbid shall be in the amount of \$165,000 (an amount that is
27 approximately \$15,000 higher than the purchase price under the Proposed N321WT Purchase
28

1 Contract), and all subsequent overbids shall be in an amount at least \$5,000 higher than the
2 preceding bid.

3 (6) Pursuant to the Proposed N321WT Purchase Contract and the Receiver's
4 listing agreement with his Broker, a sales commission in the fixed amount of 5% of the final sales
5 price paid for the N321WT Helicopter by the Proposed N321WT Helicopter Buyer, or if a higher
6 overbid is received and accepted at the overbid session, by the winning overbidder, shall be paid
7 from the proceeds of sale of the N321WT Helicopter at close of escrow and shall be paid to the
8 Broker as listing agent under the exclusive listing agreement ("N321WT Helicopter Listing
9 Agreement") attached as Exhibit 2 to the Declaration of Kenton Johnson in support of the Motion
10 and the Sale Authorization Order entered by the Court on August 26, 2011 (Doc. No. 288).

11 E. The Receiver is authorized to sell and transfer the N321WT Helicopter free and
12 clear of liens, including specifically any liens of SunFirst Bank, now in receivership with the
13 Federal Deposit Insurance Corporation as Receiver ("SunFirst"), which are disputed, including
14 without limitation the lien reflected in that Notice of Aircraft Security Agreement and Aircraft
15 Security Agreement dated as of May 19, 2010 in favor of SunFirst, and recorded with the Federal
16 Aviation Administration ("FAA") on or about June 15, 2010 as Conveyance No. TM007392, and
17 the UCC-1 Financing Statement filed with the Utah Department of Commerce as File No.
18 380044201032, with such liens to attach to the proceeds of sale in the same amount, and with the
19 same validity, extent and priority as said liens had against the N321WT Helicopter, and subject to
20 further order of the Court determining the amount, validity, extent and priority of such liens;

21 F. The Receiver is hereby authorized to complete the sale of the N321WT Helicopter
22 to the Proposed N321WT Helicopter Buyer under the N321WT N41286 Purchase Contract, or to
23 the person who submits the highest qualified overbid at the overbid session to be conducted
24 pursuant to the foregoing procedures, and such sale is hereby approved and confirmed pursuant to
25 this Order without further notice, hearing or order;


26 G. The Receiver is hereby authorized to execute all documents and instruments
27 necessary or convenient to complete, implement, and effectuate the sale of the N321WT
28

1 Helicopter, including without limitation any documents necessary or convenient to transfer title
2 thereto;

3 H. The Receiver is hereby authorized engage Quantum Helicopters as Broker to list
4 for sale that certain 2005 Robinson R44 Raven II helicopter bearing Registration No. N74367
5 ("N74367 Helicopter") and is authorized to enter into the exclusive written listing agreement
6 ("N74367 Helicopter Listing Agreement") with Quantum Helicopters as Broker, attached as
7 Exhibit 5 to the Declaration of Kenton Johnson in support of the Motion; and

8 I. Notice of the Motion is deemed to be sufficient under Local Civil Rule 66-5 based
9 on the service of the notice of the filing of the Motion and the Motion on all parties and service of
10 the notice of the filing of the Motion on all known non-consumer creditors of the estate, and on
11 all known taxing authorities with a potential claim in the receivership estate concurrent with the
12 filing of the Motion with the Court.

13
14
15 Dated: October 4, 2012



MIRANDA M. DU
United States District Judge